

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 10.06.2019

CORAM
THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.25457 of 2008
and
WP.MP.No.1 of 2008

Chinnu

..Petitioner

Vs

- 1.The Principal Secretary,
and Commissioner of land,
Administration.,
Chepauk,
Chennai -600 005.
 2. The District Revenue Officer,
(Additional District Judge),
Villupuram,
Villupuram District.
 3. The Revenue Divisional Officer,
Kallakurichi,
Villupuram District.
 4. The Tahsildar,
Sankarapuram Taluk Officer,
Sankarapuram,
Villupuram District.
 - 5.Packkirisamy
- ..Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, or any other Writ or direction or order or nature of Writ to call for the records passed by the second respondent in his proceedings AA 3/D.R.R.B.P. 09/06 A 3/63517 dated -.02.2008 received by the petitioner on 25.02.2008 quashing the same and consequently directing the respondents to issue a Patta in favour of the petitioner.

For Petitioner : Mr.G.Ranganathan

For Respondents : Ms.Rajalakshmi, A.G.P.
for R1 to R4
Ms.Dr.S.Padma for R5

ORDER

This Writ Petition has been filed for issuance of a writ of Certiorarified Mandamus to quash the order of the second respondent passed in his proceedings AA 3/D.R.R.B.P.09/06 A 3/63517 (04) dated .02.2008 and direct the respondent to issue a patta in favour of the petitioner.

2 The petitioner and the fifth respondent are brothers. According to the petitioner, as per the oral partition, the wet lands were allotted to the fifth respondent and he was allotted with dry lands. Accordingly, they have been in possession and enjoyment of the properties. It is further stated that the dry lands to an extent of 0.35.0 Ars in survey No.378/2 was allotted to the petitioner and mutation were effected in the revenue records also changed in his name.

3 It is alleged that during the survey of lands under U.D.R. Scheme, the authorities wrongly issued a patta in favour of the fifth respondent, but on the application of the petitioner the fourth respondent granted patta in favour of the petitioner. However, on an appeal filed by the fifth respondent before the third respondent which was reversed and hence she preferred a revision before the second respondent, who also confirmed the order of the third respondent.

4 The learned counsel for the petitioner would submit that the second and third respondent without conducting proper inspection and without verifying the physical possession of the property passed the impugned order and hence, they are liable to be set aside.

5 The learned Additional Government Pleader would submit that the petitioner seeks issuance of patta based on a oral partition, which was denied by the fifth respondent. The authorities having found the petitioner has not produced any materials to substantiate his case ordered restoration of patta issued in favour of the fifth respondent. It is further stated that as per Section 14 of the Tamil Nadu Patta Act, the remedy of the petitioner is before the Civil Court.

6 The learned counsel for the fifth respondent would submit that while conducting survey under U.D.R.scheme a patta was wrongly issued in favour of the fifth respondent, which was cancelled erroneously by the fourth respondent and if the petitioner is aggrieved by the orders of the third and second respondent, it is open him to approach the competent civil Court.

7 Heard the learned counsel appearing on either side and perused the materials available on record.

8 A perusal of the materials would reveal that the petitioner sought for issuance of patta based on the oral partition, but no where it is stated when the oral partition had taken place. It is settled that the Revenue Authorities have no jurisdiction to decide the title, and if any rival claim over the property, they have to be relegated to the competent Civil Court, to establish their claim. In this case, the first respondent, while observing that no second revision will lie before the first respondent rightly directed the parties to approach the competent Civil Court.

9 In view of the above facts, I find no merit in this writ petition warranting interference of this Court. In the result, the Writ Petition stands disposed of, with liberty to the petitioner to approach the competent Civil Court. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sbn

To

- 1.The Principal Secretary,
and Commissioner of land,
Administration.,
Chepauk,
Chennai -600 005.
2. The District Revenue Officer,
(Additional District Judge),
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Kallakurichi,
Villupuram District.
4. The Tahsildar,
Sankarapuram Taluk Officer,
Sankarapuram,
Villupuram District.

+1cc to Mr.G.Ranganathan , Advocate SR.No. 46588

+1cc to Ms.Dr.S.Padma , Advocate SR.No. 46766

+1 cc to Government Pleader Sr.No. 46944

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A.SK(10/07/2019)